Wisconsin Spill Reporting Exemptions

Statutory Exemptions

The following exemptions to spill reporting are included in s. 292.11, Wis. Stats.:

- discharges within the limits authorized by a valid permit or program approved under Chs. 281, 285, or 289 - 299 (e.g. WPDES discharge permit);
- law enforcement agencies/fire departments using hazardous substances in protecting human health, safety, or welfare;
- applications of a registered pesticide according to label instructions, or application of a fertilizer at or below normal and beneficial agronomic rates

De Minimis Exemptions:

Besides the statutory exemptions identified above, Ch. NR 706, Wis. Adm. Code establishes exemptions for small quantity spills of agricultural and petroleum related compounds, as well as substances that have a federal reportable quantity established. These quantities are termed "de minimis" in that below these levels, under the following conditions, state notification of a discharge is not required. While reporting requirements may be exempted, cleanup requirements remain.

De Minimis Exemptions do not apply if the spill:

- ✔ has not evaporated or been cleaned up in accordance with NR 700 - 726;
- ✔ adversely impacts or threatens to adversely impact the air, lands, waters of the state as a single discharge, or when accumulated with past discharges;
- ✔ causes or threatens to cause chronic/acute human health impacts; or
- ✔ presents or threatens to present a fire or explosion or other safety hazard (including evacuations).

If you have a discharge that meets one of the following de-minimis exemptions, but has not been cleaned up, adversely impacts or threatens to adversely impact the environment, causes or threatens to cause human health impacts, or presents or threatens to present a fire or explosion hazard (including all evacuations), you still need to report your spill!

De Minimis Exemptions are as follows:

Discharges of Petroleum compounds if you spill:

- gasoline or another petroleum product is completely contained on an impervious surface.
- less than one gallon of gasoline on a pervious surface or runs off an impervious surface.
- less than five gallons of other petroleum products on a pervious surface or runs off an impervious surface.

Discharges of Agrichemical compounds if:

- the amount is less than 250 pounds of a dry fertilizer.
- the amount is less than 25 gallons of a liquid fertilizer.
- the amount discharged when diluted as indicated on the pesticide label would cover less than one acre of land if applied according to label instructions for pesticides registered for use in Wisconsin.

Federal reportable quantities:

- if the amount discharged is less than the federal reportable quantity.

For More Information

To order this and any other publications, or to find out more information about the Remediation and Redevelopment Program, please call our Information Line at 800-367-6076 (long distance in-state) or 608-264-6020 (local or out-of-state); or check out our web site at http://www.dnr.state.wi.us/org/aw/rr.

Chapter 292.11 – Wisconsin Spill Law

The spill law, Chapter 292.11, Wis. Stats., requires that a person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance shall notify the department immediately of any discharge not exempted by the statute. The Department has a 24-hour toll free number for reporting spills: 1-800-943-0003.

In order to determine whether you have a hazardous substance spill that requires immediate notification, you must ask yourself the following three questions: 1) Is the substance spilled a hazardous substance; 2) Has it been released to the environment; and 3) Are there statutory or rule exemptions that apply to this situation. The following text should help you answer those questions, and provides you with insights into unusual spills that did require notification.

WISCONSIN DEPT. OF NATURAL RESOURCES

PUB-RR-558 MARCH, 2003

Hazardous Substance Spills Reporting Requirements

Wisconsin Department of Natural Resources • PO Box 7921 • Madison, WO 53707

Hazardous Substance Definition

Chapter 292.01(5), Wis. Stats., defines a hazardous substance as "any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illnesses or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department."

This definition suggests that a hazardous substance can be anything, depending on the nature of the release. The question you really need to ask yourself is how much was released and into what environment. The rule of thumb used by many is if you have to think about whether it needs to be reported, it probably does. Remember, reporting spills never gets you into trouble, only failure to report does. Whether the spilled hazardous substance is heating oil or gasoline, or something unusual like corn, butter and/or manure that flows towards a stream, pickle juice spilled on the ground, or even mercury spilled in a classroom, DNR staff will tell you if your specific incident does not meet the criteria of a reportable spill at the time that you report it. To help clarify what spills are reportable, statutory exemptions as well as "de-minimis" exemptions have been established and are explained on the back page of this brochure.

The 24-hour Toll Free Hotline for Reporting Spills is: 1-800-943-0003

Knee High by the Fourth of July!

We don't think of corn as hazardous – fields of corn dominate the landscape in the summer. Sweet corn stands at the farmers' market and ground corn for cattle or hogs are the images that come to mind. However, a stream filled with dried shell corn from a derailed train is quite a different picture. As organic materials decompose in water, they increase the biological oxygen demand, or BOD, of the water. Their degradation reduces the amount of oxygen available to the organisms living in that water body, including fish. If the BOD gets too high, the water will not contain sufficient oxygen for organisms to survive – in this case, the corn created an anaerobic environment. The substance can be corn, milk, manure, or any other organic material. The quantity and size of the spill, the biological oxygen demand of the spilled material, and the size of the water body will determine whether the environment is at risk. The company associated with this spill did not report it to the department, and was subject to enforcement action.

If there's corn, there must be butter…

In May of 1991, a fire broke out in a refrigerated warehouse that stored 50 million pounds of food products, including butter, lard and cheese. This warehouse was in close proximity to a creek that flowed into Lake Monona, a large urban lake. The heat from the fire caused the food products to melt, which in turn, contributed to the intensity and duration of the fire. It took 8 days for the fire department to put out the fire. The warehouse buildings were destroyed, and the water from the fire suppression activities mixed with the melted food products and flowed toward the creek and nearby storm sewers – all leading to the lake. The fire department realized quickly that this was a reportable spill, and a potential environmental disaster and reported the release to the DNR. The department acted to prevent the mixture from reaching the waterbodies, and the total environmental cleanup costs to the warehouse company were over $1 million.

What's that smell?

Driving through the beautiful Wisconsin countryside with the windows open – fresh air filling your car – until you pass an area that has recently been spread with animal manure. Yes, you explain to your children, waste from animals can be used to fertilize the land, making it a recyclable product benefiting the environment. Until, however, that manure is applied too heavily or washed into a stream where the organic material removes the oxygen from the stream resulting in a major fish kill stretching for miles downstream. Again, manure is not often thought of as a hazardous substance – it's a natural by-product of animal husbandry – but it needs to be properly managed or hazardous conditions may result. For more information on agricultural spills, see DNR publication # RR-687 "Agricultural Spills and How to Handle Them".

In a pickle!

This truck driver was in quite a pickle after his truck carrying pickle juice was in a major collision. Pickle juice leaked from the truck bed, along with diesel fuel from the truck itself. This caused soil contamination due to the hazardous characteristics of the diesel fuel along with the high pH of the pickle juice. The trucking company hired a clean up company to excavate the contaminated soil and properly dispose of it. If left in place, this contamination could have migrated to the groundwater, causing impacts to nearby private drinking water wells.

"F" in Science Class…

Recently, a high school science teacher was using elemental mercury in his science class while talking about elements and compounds. Despite warnings about the hazards of mercury, it was simply too tempting for one student, who stole the small bottle containing approximately 4 ounces of mercury after class.

The student and friends began playing with the mercury, spreading it to various classrooms, stairwells, steps and sidewalks. Later in the morning, the student went bowling at a nearby bowling alley. On the bus to the bowling alley, the container of mercury was passed around, spilling on more students and the bus. At the bowling alley, students continued to play with the mercury, putting it in the finger holes of bowling balls and rolling them down the lanes. During lunch, the student took the mercury to a friend's house, transferring it to zip lock bags to be sold for $1 per bag. Before classes ended that day, the student was called out of her classroom, the mercury was confiscated and police, fire departments, and the DNR were notified.

After sampling, the high school, several students, one home, a school bus, the bowling alley, and a sidewalk tested positive for mercury contamination. A contractor was called into assist with the mercury cleanup. In order to gain control of the scene and begin to control the spread of the mercury students were locked in the building and put into separate rooms, depending on whether they were contaminated or not. Students that were exposed to the mercury were required to go to the school locker rooms, remove their clothes, shower, and dress in new clothes. Several students were taken to a local hospital for additional mercury testing. Total costs for the entire cleanup were more than $250,000.

When in doubt, call the number!

If you're not sure whether you have a spill that needs to be reported, call the 24-hour toll free hotline, 1-800-943-0003, and you will be provided with guidance on reporting. In many situations, spill report forms are not completed if the incident is not considered a hazardous substance spill to the environment. You will need to provide information such as

- ✔ your name, address, location of the discharge;
- ✔ physical state, quantity, chemical characteristics of the discharged substance;
- ✔ cause of the discharge;
- ✔ destination of the discharged substance;
- ✔ actions taken to stop the release/minimize the impact to the environment
- ✔ actual or potential impacts to human health or the environment

DNR Regional Spill Coordinators:

Northeast: Roxanne Chronert (920) 492-5592

Northern: Norm Dunbar (715) 365-8963

Southeast: Scott Ferguson (414) 263-8685

South Central: Ted Amman (608) 275-3332

West Central: John Grump (715) 839-3775

See the back page for further explanation of reporting exemptions.

Remember, reporting a spill is always in your best interest – it can minimize potential legal consequences, protect you from future false accusations, and establish a record on your follow-up activities cleaning up the spill. Not reporting spills is where problems start. If you have general questions about spill reporting, call your regional DNR office and ask for the spill coordinator. They can assist you in your spill-related questions.

ARE THESE HAZARDOUS SPILLS?